

FILE COPY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

STEVEN L. and LaVERNE L., )  
individually, and as Guardians )  
of the Person, AARON L., an )  
incompetent adult, )

Plaintiffs, )

vs. )

No. CV00-00338 MLR-LEK

PAUL LeMAHIEU, in his official )  
capacity as Superintendent of )  
the Hawaii Public Schools; )

WILLIAM C. RYNE, in his )  
capacity as former Principal )  
of Molokai High and )  
Intermediate School; SARAH )

KALANI, in her capacity as )  
Former Principal of Molokai )  
High and Intermediate School; )

LINDA PULELOA, in her official )  
capacity as Principal of )  
Molokai High and Intermediate )  
School; and DEPARTMENT OF )  
EDUCATION, STATE OF HAWAII, )

Defendants. )

CERTIFIED COPY

DEPOSITION OF BARBARA BATEMAN, Ph.D., J.D.

MILLBRAE, CALIFORNIA

JUNE 6, 2008

ATKINSON-BAKER, INC.

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REPORTED BY: JANE H. STULLER, CSR No. 7223, RPR

FILE NO.: A20466D

EXHIBIT F

1 MR. LEVIN: Objection; calls for speculation.

2 THE WITNESS: I would rather phrase that as the  
3 failure of DOE to properly recruit people to go there.

4 BY MR. USHIRODA:

5 Q. Okay. Do you know if the DOE made any efforts  
6 to recruit teachers -- qualified teachers to go to  
7 Molokai?

8 A. I don't have any specific knowledge of efforts  
9 that were made except that they were, by and large, not  
10 successful, whatever they may have been or not.

11 Q. As part of your assignment on this case, were  
12 you asked to look into efforts made by the DOE to  
13 recruit qualified teachers -- special education teachers  
14 to go to Molokai?

15 A. No.

16 Q. Is lack of funding one of the factors that had  
17 contributed to the difficulty in getting qualified  
18 special education teachers to Molokai?

19 MR. LEVIN: Objection; relevance, and calls for  
20 speculation.

21 THE WITNESS: Lack of funding is not a legal  
22 defense for a failure to provide FAPE. So yes, I  
23 believe that that is what most administrators in Hawaii  
24 agencies would say was a part of the cause.

25 BY MR. USHIRODA:

1 goals. And if one wanted to infer from that -- trying  
2 to give the benefit of the doubt to the IEP, if you  
3 wanted to imagine that the IEP had been properly  
4 written, then the fact that he didn't meet the goals  
5 would be evidence of lack of progress.

6 Q. Okay.

7 A. And then it goes on to say, however, it  
8 couldn't do that.

9 Q. Right.

10 A. Okay.

11 Q. Doctor, are you going to render an opinion on  
12 whether the defendants alleged -- well, the defendants  
13 alleged failure to provide speech and behavior services  
14 to Aaron constituted deliberate indifference?

15 A. If I'm asked, I will render that opinion.

16 Q. Okay. And sitting here today, do you have such  
17 an opinion?

18 A. Yes, I do. They knew they weren't providing  
19 the services, and they continued to not provide, to me  
20 that's indifferent and deliberate and knowing.

21 MR. LEVIN: Thank you.

22 MR. USHIRODA: Do you have an objection?

23 MR. LEVIN: No.

24 MR. USHIRODA: Okay.

25 Q. I'm sorry. Doctor, were you going to say some

REPORTER'S CERTIFICATE

I, JANE H. STULLER, CSR No. 7223, Certified  
Shorthand Reporter, certify;


That the foregoing proceedings were taken  
before me at the time and place therein set forth, at  
which time the witness was put under oath by me:

That the testimony of the witness and all  
objections made at the time of the examination were  
recorded stenographically by me and were thereafter  
transcribed; that the foregoing is a true and correct  
transcript of my shorthand notes so taken.

I further certify that I am not a relative or  
employee of any attorney or of any of the parties, nor  
financially interested in the action.

I declare under penalty of perjury under the  
laws of California that the foregoing is true and  
correct.

Dated this 6th day of June, 2008.

  
JANE H. STULLER, CSR NO. 7223